

Bill Would Raise Fines For Building Violations

More Powerful Board Sought in Montgomery

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A Maryland lawmaker said yesterday that he would introduce legislation to increase fines for building violations in Montgomery County and give the county's Planning Board the power to subpoena witnesses and compel testimony in enforcement cases.

The proposal by Del. William A. Bronrott (D-Montgomery) would be one of a series of changes in the county's oversight of development spurred by the revelation this year that hundreds of buildings at Clarksburg Town Center, a community of 1,300 homes north of Germantown, were built too high and too close to the street.

The Planning Board found itself unable to compel witnesses, including former county planner Wynn Witthans, to testify at hearings it held on Clarksburg in October and November.

Witthans resigned from the Department of Park and Planning in June after acknowledging she had altered

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MONTGOMERY. *From B1*

Clarksburg planning documents.

The planning department staff has recommended that the board fine the developer, San Diego-based Newland Communities, and five builders up to \$2.1 million for the violations, but a final decision on fines awaits the outcome of closed door mediation that began yesterday.

Bronrott said his legislation, if approved, would act as a deterrent. "We must ensure that violations exceed the cost of doing business," he said.

Amy Presley, a leader of the residents group that uncovered the violations, spoke in favor of the proposal at the news conference but called it "pinpoint reform" rather than sweeping change in the way development is regulated or monitored.

Still, she said, increasing the fines might create bottom-line pressure that would cause developers to think twice about constructing buildings in violation of zoning regulations or site plans. "If the pin is pushed when needed, then it will be effective," she said.

Presley also distributed a statement saying her presence should not be construed as support for "any one elected official or candidate," adding in an interview that her group was not endorsing council member Steven A. Silverman (D-At Large), a candidate for county executive who joined Bronrott yesterday.

Silverman, who has long enjoyed campaign support from developers, has loudly called for reform of the county's oversight of development.

As chairman of the council's Planning, Housing and Economic Development Committee, he has been in a position to monitor how the planning department regulates builders. Since the Clarksburg scandal broke, his committee has held bi-weekly "oversight" sessions with county planners.

County Executive Douglas M. Duncan (D), a candidate for governor who also has relied on support from developers, said in a statement yesterday that Bronrott's bill "addresses a key shortcoming" in the Planning Board's powers and applauded the proposed increase in fines.

At present, Montgomery's Planning Board can levy fines as high as \$500 a violation, with each day of the violation counting as a separate offense. Under Bronrott's proposal, the board could apply a maximum fine of \$500,000 for each violation or \$1,000 a day per violation, whichever is higher.

A land-use expert said it is unusual for a planning board or agency to have subpoena powers but said it makes sense, especially if the powers would be used when a board is attempting to investigate an alleged violation.

"These enforcement actions are fact-specific, and if you don't have all the facts, you can't really make a decision," said Stuart Meck, director of Rutgers University's Center for Government Services and a co-author of model zoning and planning legislation for the American Planning Association.

Meck said that the process of issuing permits for land use is becoming more formal across the nation as more interest groups seek a voice in the regulation of development.